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**FILED**

AUG 09 2011

SECRETARY, BOARD OF  
OIL, GAS & MINING

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**BEFORE THE BOARD OF OIL, GAS & MINING  
DEPARTMENT OF NATURAL RESOURCES  
STATE OF UTAH**

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SAUNDRIA WHITMER, ROBBIN  
MURDOCK, RONALD MURDOCK, JOYCE  
MURDOCK, MAC. E MURDOCK, STUART  
MURDOCK, AND BENNY MURDOCK

Petitioners,

v.

MOUNTAIN OIL AND GAS, INC. AND  
HOMELAND GAS AND OIL, LTD.

Respondents,

KARNEL MURDOCK, SHIRLY REED, and  
JUNE MURDOCK

Intervenors

MOTION  
AND MEMORANDUM  
TO DISMISS PETITION  
WITHOUT PREJUDICE

Docket No. 2010-001  
Docket No. 2010-002  
Docket No. 2010-003  
Docket No. 2010-004  
Docket No. 2010-005  
Docket No. 2010-006  
Docket No. 2010-007  
Docket No. 2010-014  
Docket No. 2010-018

Cause No. 131-127

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The foregoing matter consists of nine petitions filed pursuant to Utah Code § 40-6-9 (2010) by individuals all claiming that they are entitled to payment from the sale of oil from the 1-2B1E Well from the Respondents, Mountain Oil and Gas, Inc. and Homeland Gas and Oil, Ltd. The

matter was last continued on January 13, 2011 to the August 24, 2011 Board Hearing with the direction that the “Petitioners [to] appear before the Board . . . to update the Board on the status of the Communitization Agreement and leases at issue and to inform the Board of Petitioners’ intentions with respect to the [claims]”.

### MOTION TO DISMISS WITHOUT PREJUDICE

The Division hereby moves the Board to Dismiss the above entitled consolidated matters and the individual claims therein without prejudice, with the understanding and intent that the parties may re-file their requests for relief against Respondents, Mountain Oil and Gas, Inc. and Homeland Gas and Oil, Ltd, pursuant to Utah code 40-6-9(2010) at any time with the expectation that the underlying issues including the status of the leases and the federal Communitization Agreement (CA) will have been resolved and the Board will be able to address the issues unless they have been otherwise resolved.

### ARGUMENT

These matters were originally filed in January and March, 2010 and have been continued several times due to uncertainty about the status of the leases and the federal CA. The Board conditioned the continuances on the establishment of an escrow for the proceeds that were claimed, and on September 24, 2010 an escrow agreement was established by Mountain Oil & Gas Inc, (MOG) for production from the 1-2BE Well in an amount of \$56,500.00 to be held by Daniel Sam as escrow agent. The underlying issues of the lease status and the CA status remain unresolved and appear likely to continue to be unresolved for an indefinite period of time. The most recent inquiries

do not provide any expectation of any immediate resolution of these issues. The continuance of these cases creates administrative burdens for the Board and uncertainty to others concerning the possible actions by the Board. Since it is conceded that the Board cannot provide any further relief until the underlying issues are resolved and the payments are now being escrowed, it is recommended and moved that the matters be dismissed with the expectation that they can be re-filed without prejudice.

Respectfully submitted this 9<sup>th</sup> day of August, 2011

MARK L. SHURTLEFF  
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STEVEN F. ALDER  
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**CERTIFICATE OF SERVICE**

I hereby certify that I caused a true and correct copy of the foregoing DIVISION'S MOTION AND MEMORANDUM TO DISMISS WITHOUT PREJUDICE for Docket Nos. 2010-001 to 007 and 2010 -14 an 2010-018, Cause No. 313-127 to be mailed with postage prepaid to the address shown and emailed as shown to the following persons this 9<sup>th</sup> day of August, 2011

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